

ORIGINAL

MUHANNAD TOMA¹
A78-759-862
San Diego Detention Center (CCA)
P.O. Box 439049
San Ysidro, CA 92143-9049

FILED

DEC 19 PM 3:27

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY K. H. K. DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MUHANNAD TOMA,
[A78-759-862],

Civil Action No. **07 CV 2381 JAH POR**

Petitioner,

PETITION
FOR

WRIT OF HABEAS CORPUS

v.

[28 U.S.C. § 2241]

MICHAEL CHERTOFF, SECRETARY OF
THE DEPARTMENT OF HOMELAND
SECURITY, MICHAEL MUKASEY,
ATTORNEY GENERAL, ROBIN F. BAKER,
DIRECTOR OF SAN DIEGO FIELD OFFICE,
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, JOHN A. GARZON,
OFFICER-IN-CHARGE,

Respondents.

I.

INTRODUCTION

The petitioner, Muhannad Toma, respectfully petitions this Court for a writ of habeas corpus to remedy his unlawful detention.

¹The petitioner is filing this petition for a writ of habeas corpus with the assistance of Janet Tung and the Federal Defenders of San Diego, Inc., who drafted the instant petition. That same counsel also assisted the petitioner in preparing and submitting his request for the appointment of counsel. Robin F. Baker is the director of the San Diego field office of U.S. Immigration and Customs Enforcement. He administers federal immigration laws on behalf of the Secretary of Homeland Security in the federal judicial district for the Southern District of California. In Mr. Baker's capacity as the director of the local office of U.S. Immigration and Customs Enforcement, he has immediate control and custody over the petitioner. John A. Garzon is the officer in charge of the detention facility holding the petitioner.

1 Petitioner is in the custody of the Secretary of the Department of Homeland Security and the
2 Attorney General of the United States and their employees (hereinafter "respondents"). He is detained at
3 the respondents' detention facility in San Diego, California, under the control of the officer in charge.

4 II.

5 JURISDICTION AND VENUE

6 This Court has jurisdiction under 28 U.S.C. §§ 1331, 2241(c)(1) and (3), and U.S. Const. art.
7 I., § 9, cl. 2, because the petitioner is being unlawfully detained as a result of U.S. Immigration and Customs
8 Enforcement's misapplication of the provisions of 8 U.S.C. § 1231(a)(6). See Zadvydas v. Davis, 533 U.S.
9 678, 686-90 (2001). Moreover, his detention violates the Constitution, the laws, and the treaties of the
10 United States. See Magana-Pizano v. INS, 200 F.3d 603, 610 (9th Cir. 2000); Goncalves v. Reno, 144 F.3d
11 110, 123 (1st Cir. 1998). Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471, 482-83
12 (1999), makes clear that the petitioner's habeas petition is not barred by 8 U.S.C. § 1252(g).

13 Venue is proper in this district because the petitioner is detained here. See 28 U.S.C. § 2241,
14 et. seq., and 28 U.S.C. § 1391(e).

15 III.

16 BACKGROUND

17 Petitioner, a native of Iraq, entered the custody of Respondents over fifteen months ago, in
18 August 2006, where he has remained since. He was ordered removed from the United States by
19 Respondents on February 13, 2007, over ten months ago. Petitioner cannot be removed to his country of
20 origin or to an alternate country. He is being held in detention by Respondents based upon their
21 misapplication of 8 U.S.C. § 1231(a)(6) to indefinitely detain non-removable aliens.

22 The petitioner was born in Baghdad, Iraq in 1970. In 2000, he fled Iraq as a refugee and
23 entered the United States upon a grant of asylum. Petitioner was ordered removed to Iraq by an immigration
24 judge on February 13, 2007, after being taken into immigration custody in August 2006. Petitioner waived
25 appeal. Petitioner's order of removal became final as of February 13, 2007. See 8 C.F.R. § 1241.1; see also
26 8 C.F.R. § 1240.15 (appeals to the BIA must be filed within 30 calendar days of the immigration judge's
27 oral decision). Petitioner was found to be entitled to protection under the Convention Against Torture and
28 was granted deferral of removal under 8 C.F.R. § 208.17. See Appendix A (February 13, 2007, Order of

1 the Immigration Judge), attached hereto.

2 Immigration and Customs Enforcement (ICE) conducted a custody review and issued an order
3 to continue detention on or about June 29, 2007. See Appendix B, attached hereto. The order recommended
4 detention on the grounds of the alleged "serious and violent nature of your last conviction, Felony Assault
5 with Deadly Weapon, and numerous Felony convictions for Vandalism." Id. The order further stated that
6 if Petitioner was not "released or removed from the United States by August 12, 2007, jurisdiction of the
7 custody decision in your case will be transferred to the Headquarters Post Order Unit (HQPDU), 801 I St.
8 NW, Washington, DC 20536. HQPDU will made a final determination regarding your custody." Id. To
9 date, Petitioner has received no further communication regarding his custody status, and does not know
10 whether HQPDU has made a determination of his status.

11 At no time during the ten months since Petitioner was ordered removed has the United States
12 government received travel documents that would permit his repatriation to Iraq. See 8 U.S.C.
13 § 1231(b)(2)(A), (D), (E)(iv)-(vi) (deportable alien must be removed first to country designated by him at
14 deportation hearing, then to country of citizenship, then to listed countries, including the country of birth
15 or that country having sovereignty over it at time of the alien's birth or at time of the deportation.). Because
16 Petitioner has been granted deferral of removal, and there is no indication that deferral has been terminated,
17 Respondents *may not* remove him to Iraq. See 8 C.F.R. § 208.17. Moreover, as the government of Iraq is
18 in extreme political disarray, having suffered a recent war and continuing civil discord, it is extremely
19 unlikely that its government will issue travel documents to permit Petitioner's removal there in the
20 reasonably foreseeable future. Neither have Respondents obtained travel documents that would permit his
21 removal to any other country. Thus, the United States has had ample opportunities to obtain travel
22 documents, yet has failed to do so. There is therefore no indication that the petitioner can removed to Iraq
23 or any other country, in the reasonably foreseeable future.

24 IV.

25 ARGUMENT

26 THIS COURT MUST RELEASE THE PETITIONER FROM THE CUSTODY OF THE
27 RESPONDENTS UNDER APPROPRIATE CONDITIONS OF SUPERVISION.

28 Federal law requires the Attorney General to remove a deportable alien from the United States

1 within a ninety-day period after an immigration judge's order of removal becomes administratively final.
2 See 8 U.S.C. § 1231(a)(1); see also Ma v. Ashcroft, 257 F.3d 1095, 1104 (9th Cir. 2002). During the ninety-
3 day removal period, the alien must be detained in custody. See 8 U.S.C. § 1231(a)(2).

4 If the Attorney General cannot remove the alien within the statutory removal period, the
5 Attorney General can release the person in question under appropriate conditions of supervision, including
6 regular appearances before an immigration officer, travel restrictions, and medical or psychiatric
7 examinations, among other requirements. See Ma, 257 F.3d at 1104; see also 8 U.S.C. § 1231(a)(3) (listing
8 the conditions of supervision for deportable or removable aliens released from immigration custody at the
9 expiration of the ninety-day removal period). The Attorney General may detain a deportable or inadmissible
10 alien beyond the ninety-day removal period, however, when he determines that the person in question would
11 "be a risk to the community or unlikely to comply with the order of removal" if released from immigration
12 custody. 8 U.S.C. § 1231(a)(6).

13 In Zadvydas v. Davis, 533 U.S. 678, 689 (2001), the Supreme Court held that 8 U.S.C.
14 § 1231(a)(6) only authorizes a period of detention that is reasonably necessary to bring about an alien's
15 removal from the United States, and "does not permit indefinite detention." If a deportable alien has not
16 been released from immigration custody within a six-month period after the issuance of a final order of
17 removal or deportation, "the habeas court must ask whether the detention in question exceeds a period
18 reasonably necessary to secure removal." Id. at 699; see also Ma, 257 F.3d at 1102 n.5 (declaring that in
19 Zadvydas, "the Supreme Court read the statute to permit a 'presumptively reasonable' detention period of
20 *six months* after a final order of removal—that is, *three months* after the statutory removal period has ended
21") (emphasis in original). When a deportable alien "provides good reason to believe that there is no
22 significant likelihood of removal in the reasonably foreseeable future, the Government must respond with
23 evidence sufficient to rebut that showing." Zadvydas, 533 U.S. at 701. Federal officials **must** release a
24 deportable alien from custody under appropriate conditions of supervision when no "significant likelihood
25 of removal [exists] in the reasonably foreseeable future." Id.; see also Ma, 257 F.3d at 1100 (concluding
26 that federal law does not permit the Attorney General to hold someone "for more than a reasonable period"
27 beyond the ninety-day statutory removal window, and mandates release of the alien under 8 U.S.C.
28 § 1231(a)(3), when the alien "has already entered the United States and there is no reasonable likelihood that

1 a foreign government will accept the alien's return in the reasonably foreseeable future . . .").

2 The petitioner has been detained in the custody of respondents since **August 2006**, and has
3 spent, in total, over fifteen months in immigration custody. In the ten months' time since the order of
4 removal became final on **February 13, 2007**, the United States government has not received travel
5 documents that would permit the petitioner's repatriation to Iraq. There is no indication that the petitioner
6 can be removed to that country in the reasonably foreseeable future. The ninety day statutory removal period
7 under 8 U.S.C. § 1231 ended on May 14, 2007, over seven months ago.

8 The Zadvydas court erected a "presumptively reasonable" six-month detention period during
9 which the federal government should attempt to accomplish all reasonably foreseeable removals pursuant
10 to 8 U.S.C. § 1231. Zadvydas, 533 U.S. at 701; see also Ma, 257 F.3d at 1102 n.5. The six-month period
11 expired on **August 13, 2007**. Petitioner's detention beyond the presumptively reasonable detention period
12 announced in Zadvydas violates §1231(a)(6), because it is not significantly likely that the petitioner can be
13 removed to Iraq in the reasonably foreseeable future. See Zadvydas, 533 U.S. at 700; see also Ma, 257 F.3d
14 at 1112 (holding that section 1231 mandates the release of deportable aliens "at the end of the presumptively
15 reasonable detention period" when "there is no repatriation agreement and no demonstration of a reasonable
16 likelihood that one will be entered into in the near future . . ."). Therefore, the petitioner **must** be released
17 under the conditions set out in §1231(a)(3). See Zadvydas, 533 U.S. at 700-01.

18 **V.**

19 **REQUESTED RELIEF**

20 The petitioner requests that this Court order the respondents to release him from custody under
21 the conditions of supervision set forth in 8 U.S.C. §1231(a)(3).

22 **VI.**

23 **VERIFICATION**

24 I, Muhannad Toma, hereby verify that the facts contained in the instant petition are true and
25 correct.

26
27 Dated: 12-13-07

Respectfully submitted,



MUHANNAD TOMA
Petitioner

APPENDIX A

IMMIGRATION COURT
446 ALTA ROAD, STE 5400, COURTROOM 1
SAN DIEGO, CA 92158

In the Matter of

TOMA, MUHAMMAD MIKHA
Respondent

Case A78-759-B62

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on Feb 13, 2007.
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case. *

- ☒ 1 The respondent was ordered removed from the United States to IRAQ
- ☐ 2 Respondent's application for voluntary departure was denied and respondent was ordered removed to
- ☐ 3 alternative to
- ☐ 4 Respondent's application for voluntary departure was granted until upon posting a bond in the amount of \$_____ with an alternate order of removal to
- ☐ 5 Respondent's application for asylum was () granted () denied () withdrawn.
- ☐ 6 Respondent's application for withholding of removal was () granted () denied () withdrawn.
- ☐ 7 Respondent's application for cancellation of removal under section 240A(a) was () granted () denied () withdrawn.
- ☐ 8 Respondent's application for cancellation of removal was () granted under section 240A(b)(1) () granted under section 240A(b)(2) () denied () withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ 9 Respondent's application for a waiver under section _____ of the INA was () granted () denied () withdrawn or () other.
- ☐ 10 Respondent's application for adjustment of status under section _____ of the INA was () granted () denied () withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ 11 Respondent's status was rescinded under section 246.
- ☐ 12 Respondent is admitted to the United States as a _____ until _____.
- ☐ 13 As a condition of admission, respondent is to post a \$_____ bond.
- ☐ 14 Respondent knowingly filed a frivolous asylum application after proper notice.
- ☐ 15 Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ 16 Proceedings were terminated.
- ☒ 17 Other: Granted Deferral of Removal to Iraq under 8 CFR 208.17. Take Care Consider
Date: Feb 13, 2007
Appeal: WAIVED Appeal Due By:

J. DePaola
ZSA ZSA DEPAOLA
Immigration Judge

GSO

Recorded for DHS. March 15, 2007

APPENDIX B

ALIEN
COPYOffice of Detention and Removal Operations
San Diego Field OfficeU.S. Department of Homeland Security
880 Front Street
San Diego, California 92101**U.S. Immigration
and Customs
Enforcement**

TOMA, Muhannad Mikha
C/O Corrections Corporation of America
Otay Detention Facility
446 Alta Road, Suite #5400
San Diego, California 92158

A78 759 862

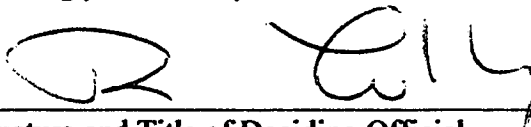
Decision to Continue Detention

This letter is to inform you that your custody status has been reviewed and it has been determined that you will not be released from the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your file and/or your personal interview and consideration of any information you submitted to ICE's reviewing officials.

The seriousness and violent nature of your last conviction, Felony Assault with Deadly Weapon, and numerous Felony convictions for Vandalism makes the U.S. Immigration and Customs Enforcement believe that you are a great danger/threat to the community, if released from ICE custody.

Based on the above, you are to remain in ICE custody pending your removal from the United States. You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal, and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to effect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 USC Section 1253(a).

If you have not been released or removed from the United States by *August 12, 2007*, jurisdiction of the custody decision in your case will be transferred to the Headquarters Post Order Unit (HQPDU), 801 I St. NW, Washington, DC 20536. HQPDU will make a final determination regarding your custody.


Signature and Title of Deciding Official

6/29/7
Date

ORIGINAL

CIVIL COVER SHEET

JS-44 (Rev. 3/99)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MUHAMMAD TOMA

San Diego Detention Center (CCA), P.O. Box 439049

San Ysidro, CA 92143

(b) County of Residence of First Listed Plaintiff SAN DIEGO

(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

2007 DEC 19 PM 3:28

MICHAEL CHERTOFF, ET AL.

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIACounty of Residence of First Listed Defendant SAN DIEGO

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED. Kmt

(c) Attorney's (Firm Name, Address, and Telephone Number)

PRO SE

Attorneys (If Known)

(619) 557-5662

KAREN P. HEWITT, U.S. ATTY

ATTN: CIVIL PROCESS CLERK

880 FRONT STREET, SAN DIEGO, CA 92101

07 CV 2381 JAH POR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ PTF ☐ DEF ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ PTF ☐ DEF ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/e tc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input checked="" type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 U.S.C. § 2241

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE

DOCKET NUMBER

DATE

X 12-3-07

SIGNATURE OF ATTORNEY OF RECORD

X *[Signature]*

FOR OFFICE USE ONLY

RECEIPT #

15730

AMOUNT

5.

APPLYING IFP

JUDGE

MAG. JUDGE

12/19/07 *[Signature]*

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

145730 - SR

**December 19, 2007
15:31:33**

Habeas Corpus

USAD #: 07CV2381 HABEAS

Judge.: JOHN A HOUSTON

Amount.: \$5.00 MO

Check#: 734824949

Total-> \$5.00

FROM: TOMA V. CHERTOFF
HABEAS

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ORIGINAL

MUHANNAD TOMA,
[A78-759-862]

Plaintiff,

VS.

MICHAEL CHERTOFF, et al.,

Defendant.

) Case No. TBA

07 CV 2381 JAH POR

PROOF OF SERVICE

I, the undersigned, say:

1) That I am over eighteen years of age, a resident of the County of San Diego, State of California, and not a party in the within action;

2) That my business address is 225 Broadway, Suite 900, San Diego, California, 92101;

3) That I served the within **CIVIL COVER SHEET, PETITION FOR WRIT OF HABEAS CORPUS, NOTICE OF MOTION AND MOTION FOR APPOINTMENT OF COUNSEL, AND DECLARATION OF JANET C. TUNG IN SUPPORT OF PETITIONER'S MOTIONS**, placing a true copy of the above-mentioned document in the United States mail on December 19, 2007, to:

KAREN P. HEWITT, U.S. ATTORNEY
ATTN: Civil Processing Clerk
880 Front Street
San Diego, CA 92101

I certify under the laws of the State of California that the foregoing is true and correct.

Executed on 19 December 2007 at San Diego, California.

SYLVIA ENRIQUE